duct. His marital pledge to his wife was that he would support and maintain her as long as they both should live. He avers his inability to support two families. Why assume the burden of supporting two families if he was not able or willing to discharge it? To use a homely phrase. "He has made his bed[s], and on it he must lie."

Legal Process Employed by Thief.—An attorney, having secured judgments against a debtor, directed a constable to levy on furniture at his residence. No one was at home at the time of the constable's visit. He rang up the attorney, and was told to take the furniture to a certain warehouse, to conceal the name on the van, and to deliver the warehouse receipts to him. After the judgments were satisfied it was disclosed that the attorney had converted the goods, and that some of them had been discovered in his possession. In People *v.* Frankenberg, 86 Northeastern Reporter, 128, it was insisted that there was no proof of a felonious taking, necessary to support a conviction of larceny under a common-law indictment for that offense, as the taking under the execution was legal, or at least not criminal. The Supreme Court of Illinois affirmed the conviction of larceny of plaintiff in error, holding that the crime may be committed where legal process is fraudulently and feloniously used for the purpose of securing possession of the goods by the thief.

Liability of Father for Reckless Driving of His Automobile by His Daughter.—While the daughter of one possessed of an automobile was driving it without her father's knowledge, she ran into plaintiff, injured him and furnished an incentive for the action in Doran *v.* Thomsen, 71 Atlantic Reporter, 296. The plaintiff contended that the daughter was the servant or the agent of the father and that he was liable for her torts. At the time of the accident she was using the machine for the recreation of herself and her own friends. The court of Errors and Appeals of New Jersey held that, even had the relation of master and servant existed generally between the father and daughter, yet it does not appear in this case that she was acting as such servant within the scope of her employment, so as to render him liable for her torts. Undoubtedly liability might have been visited upon the father had the machine been bought solely for his children's use and had been a menance to the safety of others, but his liability in that case would arise by reason of his negligence in intrusting a dangerous machine to the hands of an inexperienced or incompetent person.

Presentation of Note Over Telephone.—The negotiable Instrument Law of New York requires an instrument to be exhibited to the person from whom payment is demanded. In Gilpin *v.* Savage, 112 New York Supplement 802, it appeared that a clerk of indorsee, a bank,

called up the maker on the telephone and requested payment. Upon the maker's statement of his inability to pay, he was informed that the note would be protested. An indorser who was sought to be held contended that there was no presentation to the maker within the fair meaning of the statute. The Supreme Court of New York held that, although the maker had a right to insist on the exhibition of the note to him, he waived it by declining to pay on another ground. For every purpose the talk over the telephone was as effective as though the conversation had been within the walls of the house.

Intentional Explosion of Boiler.—A laundry was in the habit of wrongfully using the pipe of a water company to relieve its boiler of excessive pressure. The water company was aware of this use, and knew moreover that the boiler had no other exhaust. Without notice to the laundry, and with knowledge of its probable effect, the water company arranged a check valve within the pipe which furnished the boiler water. In due time the boiler exploded damaging the building. The court of Appeal of California, in Bowie *v.* Spring Valley Water Co., 97 Pacific Reporter, 530, held that defendant was liable for the explosion, and plaintiff could have recovered but for the fact that its complaint failed to allege that it was at the time of the installation of the valve using the feed pipe as a vent, and had no other means of relieving the pressure in the boiler, and that defendant was aware of these circumstances.

Constitutionality of Statute Prohibiting Traffic in Game.—The constitutionality of the New York statute providing that grouse and plover shall not be possessed during the close season, whether killed within or without the state, was attacked in New York ex rel. Silz *v.* Hesterberg, 29 Supreme Court Reporter, 10. It appeared that relator, a dealer in imported game, had in his possession two birds, one of each of the species mentioned. They were unlike the native birds of their family, and were easily distinguishable both before and after culinary attention. It was contended that while the protection of the game supply was within the police power of a state, the law in question was an unreasonable exercise thereof; that it was an unconstitutional regulation of foreign commerce; that it denied due process of law. The United States Supreme Court held that, as a state had the power to make a law that would remove from its dealers the temptation to traffic in native game under the pretext of handling foreign birds, this statute was not unconstitutional. This decision would seem to settle finally any question as to the constitutionality of 2070a of the Virginia Code.

Horse Racing on Street Is Not a Defect In Highway.—A commercial club, for the purpose of enlivening local commerce arranged a